



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2109

DATE SCANNED 3/29/10

SCANNER NO. 2

SCAN OPERATOR SES

10092650785



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 DEC -8 P 1:52

December 8, 2009

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ALEC PALMER *AP*
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *JDG*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *NM*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2009 OCTOBER
QUARTERLY REPORT FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is the name of a political committee and its treasurer who failed to file the 2009 October Quarterly Report in accordance with 2 U.S.C. 434(a). The October Quarterly Report was due on October 15, 2009.¹

The committee listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committee should be assessed the civil money penalty highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committee and its treasurer listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

¹ The committee represents a candidate that participated in the 2009 Special Runoff in California's 32nd Congressional District. The committee was required to file a 2009 October Quarterly Report covering 8/4/09-9/30/09.

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Federal Election Commission
Reason to Believe Circulation Report
2009 OCTOBER QUARTERLY Not Election Sensitive 10/15/2009 H_S_P

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2109	C00461079	BETTY CHU 4 CONGRESS	CHU, BETTY	BRIAN THOMAS CHU	\$422,395	2		Not Filed	\$105,599 (est)	\$7,425

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation -) AF 2109
2009 October Quarterly Report for the)
Administrative Fine Program: Betty Chu)
4 Congress and Brian Thomas Chu,)
Treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby
certify that on December 09, 2009, the Commission decided by a vote of 6-0 to
take the following actions in AF 2109:

1. Find reason to believe that Betty Chu 4 Congress and Brian Thomas Chu, Treasurer, violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be in the amount of \$7,425.00.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and
Weintraub voted affirmatively for the decision.

Attest:

December 11, 2009
Date

Darlene Harris
for Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 10, 2009

Brian Thomas Chu as Treasurer
Betty Chu 4 Congress
645 Barnum Way
Monterey Park, CA 91754

C00461079
AF#: 2109

Dear Mr. Chu:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through September 30th, shall be filed no later than October 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On December 9, 2009, the FEC found that there is reason to believe ("RTB") that Betty Chu 4 Congress and you as treasurer violated 2 U.S.C. § 434(a) by failing to file timely this report on or before October 15th. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$7,425. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$7,425 is due within forty (40) days of the finding, or by January 18, 2010, and is based on these factors:

Sensitivity of Report: Not Election Sensitive
Level of Activity: \$105,599
Number of Days Late: Not Filed
Number of Previous Civil Money Penalties Assessed: 2

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

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NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or January 18, 2010. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Betty Chu 4 Congress and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

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3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther
Chairman

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$7,425 for the 2009 October Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by January 18, 2010. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Betty Chu 4 Congress

FEC ID#: C00461079

AF#: 2109

PAYMENT DUE DATE: January 18, 2010

PAYMENT AMOUNT DUE: \$7,425

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2010 MAR -1 P 2:58

March 1, 2010

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ALEC PALMER
ACTING STAFF DIRECTOR *AP*

FROM: PATRICIA CARMONA *PC*
CHIEF COMPLIANCE OFFICER

BY: *NH* NATALIYA IOFFE/RHIANNON MAGRUDER *RM*
REPORTS ANALYSIS DIVISION
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION
RECOMMENDATION FOR THE 2009 OCTOBER QUARTERLY
REPORT

Attached is the name of a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file or failure to timely file the 2009 October Quarterly Report. The committee has not paid the civil money penalty requested at RTB and has been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have not paid the civil money penalty.

For your information, Betty Chu 4 Congress (AF 2109) filed the 2009 October Quarterly Report after the RTB finding and disclosed no activity (previously estimated to be \$105,599), which would result in no civil money penalty (fine previously assessed to be \$7,425).

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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3/1/2010 9:30 AM

Federal Election Commission
FD Circulation Report Fine Not Paid
2009 OCTOBER QUARTERLY Not Election Sensitive 10/15/2009 H_S_P

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
2109	BETTY CHU 4 CONGRESS	CHU, BETTY	C00461079	BRIAN THOMAS CHU	02/25/2010	Not Filed	\$0	2	12/09/2009	\$7,425	82	\$0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fine Program – Final) AF 2109
Determination Recommendation for the)
2009 October Quarterly Report: Betty)
Chu 4 Congress and Brian Thomas Chu,)
as Treasurer)

CERTIFICATION

I, Darlene Harris, Acting Secretary of the Federal Election Commission,
do hereby certify that on March 02, 2010, the Commission decided by a vote of
6-0 to take the following actions in AF 2109:

1. Make a final determination that Betty Chu 4 Congress and Brian Thomas Chu, as Treasurer, violated 2 U.S.C. § 434(a) and assess the final civil money penalty in the amount of \$0.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and
Weintraub voted affirmatively for the decision.

Attest:

March 3, 2010
Date

Darlene Harris
Darlene Harris
Acting Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 2010

Brian Thomas Chu as Treasurer
Betty Chu 4 Congress
645 Barnum Way
Monterey Park, CA 91754

C00461079
AF#: 2109

Dear Mr. Chu:

On December 9, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Betty Chu 4 Congress and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2009 October Quarterly Report. By letter dated December 10, 2009, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$7,425 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. The amount of the civil money penalty has been changed to reflect the actual level of activity on the 2009 October Quarterly Report.

The FEC made a final determination on March 2, 2010 that you as treasurer and Betty Chu 4 Congress violated 2 U.S.C. § 434(a), assessed no civil money penalty in accordance with 11 C.F.R. § 111.43, and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Matthew S. Petersen".

Matthew S. Petersen
Chairman

10092650796



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2109

DATE SCANNED 3/29/10

SCANNER NO. 2

SCAN OPERATOR SEP

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